

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 37

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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JACQUES J. BARRIAC,  
DOUGLAS B. DOBBS, JAMES R. GILLINGHAM  
and  
ADONIS SPATHIAS

Junior Party,<sup>1</sup>

v.

DONALD D. FOSTER,  
MARTIN S. LAFFEY and JOHN A. ZURCHER

Senior Party.<sup>2</sup>

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Patent Interference No. 104,036

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<sup>1</sup> Patent 5,535,950, granted July 16, 1996, based on Application 08/350,464, filed December 7, 1994. Assigned to Calmar Inc.

<sup>2</sup> Application 08/349,741, filed December 5, 1994. Assigned to Continental Acquisition Corp.

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Before CALVERT, METZ, and PATE, Administrative Patent Judges.  
CALVERT, Administrative Patent Judge.

JUDGMENT UNDER 37 CFR § 1.652

Barriac et al., the junior party, having failed to file a response to the order to show cause issued on June 20, 2000 (Paper No. 36) within the time set therein, it is appropriate to enter judgment against them.

As stated in Paper No. 36, Foster et al. motion (1) under 37 CFR § 1.633(c)(3) (Paper No. 10) is granted, and accordingly the interference is being redeclared simultaneously herewith to designate Barriac et al. claims 10/1 and 11/1 as corresponding to count 1, and Barriac et al. claims 9/4, 10/4 and 11/4 as corresponding to count 2.

Foster et al. motion (2) (Paper No. 11) is deemed withdrawn.

Pursuant to 37 CFR § 1.652, judgment is entered against Barriac et al., the junior party, in view of their failure to take testimony within the time provided, as follows:

Jacques J. Barriac, Douglas B. Dobbs, James R. Gillingham and Adonis Spathias, the junior party, are not entitled to claims 1 to 3, 10/1 and 11/1 of their involved patent, designated as

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corresponding to count 1, or to claims 4 to 6, 9/4, 10/4 and 11/4 of their involved patent, designated as corresponding to count 2. Donald D. Foster, Martin S. Laffey and John A. Zurcher, the senior party, are on the present record entitled to a patent containing claim 36 of their involved application, designated as corresponding to count 1, and claims 1, 2, 4, 6 to 14, 16, 17, 19, 26 to 33, and 37 to 44 of their involved application, designated as corresponding to count 2.

IAN A. CALVERT	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
ANDREW H. METZ	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
	)	
	)	
	)	
WILLIAM F. PATE	)	
Administrative Patent Judge	)	

IAC:psb

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